

Internal Revenue Service

Department of the Treasury
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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:ITA:4

PLR-147728-11

Date:

May 14, 2012

Taxpayer =
Year A =
B =
C =
D =
F =
G =
Year H =
Year J =

Dear :

This letter refers to the Taxpayer's request for a private letter ruling for permission to revoke its election out of the installment method for the sale of certain properties under § 453 of the Internal Revenue Code (Code) and § 15a.453-1(d)(4) of the Income Tax Regulations (Regulations).

In Year A, Taxpayer sold properties B and C to F, a related third party. Also in Year A, Taxpayer sold property D to G, a related third party. As consideration for each of the properties, Taxpayer received promissory notes. These promissory notes required the buyers to pay interest only each year until Year H. In Year H, any unpaid interest and the principal balance for the sale are to be paid in one lump sum. Inadvertently, Taxpayer's accountant did not report the gain from the sales on the installment method under § 453 of the Code, but instead reported all of the gain on Taxpayer's Year A income tax return. Taxpayer first became aware of the error in Year J, and subsequently requested this ruling.

Section 453(a) of the Code provides that income from an installment sale shall be taken into account under the installment method. Section 453(d)(1) provides that § 453(a) shall not apply to any sale if the taxpayer elects not to have § 453(a) apply to the sale.

Section 453(d)(2) of the Code provides that, except as otherwise provided by regulations, an election under § 453(d)(1) with respect to a sale may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return for the taxable year in which the sale occurs. Such an election shall be made in the manner prescribed by the regulations.

Section 453(d)(3) of the Code provides that an election under § 453(d)(1) with respect to any sale may be revoked only with consent of the Secretary.

Section 15a.453-1(d)(4) of the Regulations states that an election out of the installment method may be revoked only with consent of the Internal Revenue Service. A revocation will not be permitted when one of its purposes is the avoidance of federal taxes, or when the taxable year in which any payment was received is closed.

In this case, the information submitted indicates that Taxpayer's desire to revoke their election out of the installment method is due to inadvertence rather than for the purpose of avoiding federal taxes. Further, the Taxpayer's taxable years in which it received payments are not closed. Accordingly, based on the information submitted, Taxpayer may revoke its election out of the installment method of reporting under § 453(d)(3) of the Code, and report the gain on the sales of B, C, and D using the installment method.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,

Christina M. Glendening
Assistant to the Branch Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: